

IN THE SUPREME COURT OF INDIA, NEW DELHI
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO.(S) 494 OF 2012

JUSTICE K.S.PUTTASWAMY (RETD) & ANR

Petitioner (s)

V / S

UNION OF INDIA & ORS

Respondent (s)

AFFIDAVIT FILED ON BEHALF OF THE UNION TERRITORY OF
PUDUCHERRY

I, Chetan B. Sanghi, son of Dr.V.B.Sanghi, aged about 48 years working as Chief Secretary to Government, Government of Puducherry, having Office at the Chief Secretariat, Puducherry do hereby solemnly affirm and sincerely submit on behalf of the respondent viz., Union Territory of Puducherry as hereunder.

1. I am the Chief Secretary to Government of Puducherry and I am competent to swear the Affidavit.

2. I humbly submit that the Hon'ble Supreme Court in its order dated 26.11.2013 in the W.P.(Civil) No. 494 / 2012 challenging the implementation of Unique Identification Project, has directed all the States and Union Territories to be impleaded as respondents to give effective directions and issued notices to all the States and Union Territories to file their responses within one week.

3. I humbly submit that the Petitioner above named has chosen to prefer the aforementioned Writ Petition under Article 32 of the Constitution of India inter-alia seeking issuance of a writ in the nature of mandamus restraining the Respondent No.1 and 3 from issuing Aadhaar Numbers by way of implementing its executive order dated 28.01.2009 which, according to him tantamounts to implementing the provisions of the National Identification Authority of India Bill, 2010 pending before the parliament until and unless the said Bill is considered and passed by the Parliament and becomes an Act. That, the aforementioned said writ petition has been filed by Justice K.S. Puttaswamy (Retired) inter-alia assailing the executive action of the Government of India, which has been implementing an executive order dated 28.01.2009. The petitioner has further contended that issuing Aadhaar numbers to both citizens as also


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illegal immigrants presently illegally residing in the country, while the Bill namely, National Identification Authority of India Bill, 2010 though the bill has already been introduced in the Rajya Sabha on 03.12.2010 and the matter was referred to the Standing Committee (Finance) and the said committee by overwhelming majority has rejected the Bill by its decision dated 11.12.2011.

4. I humbly submit that this Hon'ble Court vide order dated 23.09.2013 passed in the aforementioned Writ Petition (Civil) No. 494 / 2012 inter-alia has been pleased to direct that, "no person should suffer for not getting the Aadhaar card inspite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Aadhaar card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant. A true copy of the order is annexed herewith and marked as Annexure: A-1.


5. I humbly submit that this Hon'ble Court vide order dated 26-11-13 has passed in the aforementioned Writ Petition (Civil) No.494 / 2012 inter-alia has been pleased to direct that, " after hearing the matter at length, we are of the view that all the States and Union Territories have to be impleaded as respondents to give effective directions. In view thereof notice be issued to all the States and Union Territories through standing counsel." A true copy of the Order is annexed herewith and marked as Annexure : A-2.

6. I humbly submit that the above said interim order passed by this Hon'ble Court, on 23-09-2013, with great respect, may create serious implication in the implementation of number of social welfare and other schemes being currently implemented by the Union of India and the Government of Puducherry as also Public Sector Undertaking using Aadhaar Platform, regarding the validity and usefulness of the scheme.

7. I humbly submit that UT of Puducherry has been spending crores of rupees per annum on various flagship programmes of the Government delivery of welfare services like pensions, scholarships, subsidies etc. Most of these schemes inherently suffer from duplicates and impersonated identities resulting in pilferages and also failure of benefits reaching the intended beneficiaries. A need was always felt to reduce the

identity related fraud and allow targeted people to get the benefits, they are entitled to from the Government. In the absence of fool-proof standard methods of authentication of beneficiaries, the Government of UT of Puducherry relied on paper based identification and manual procedures.

8. I humbly submit that in W.P. (Civil) No (s) 196 of 2001 in PUCL v/s Union of India and in its Order dated 27.7.2010, the Hon'ble Supreme Court said that to avoid pilferage and corruption, there must be total computerization of the Public Distribution System on top priority basis and that Union Government " must prepare a software and the same software should be used by all the States". The Court further observed that Union Government may consider computerization in consultation with the specialised agency like UIDAI or any other Agency. Accordingly, on 09.8.2010, the Union Government has set up a Task Force headed by Director General, National Informatics Centre. The Task Force was constituted of Representative of Department of Information Technology, Representative of Unique Identification Authority of India, Representative of Department of Food & Public Distribution, FCI and some select States. Directions were issued to the Central Government to take appropriate steps to have a High Powered Committee which can take assistance of all concerned to ensure computerization of PDS. A High Powered Committee was constituted with the Chairman, CVC and Director General, NIC, Director General, UIDAI, Secretary, Department of Food & Public Distribution and Supreme Court Commissioner or his representative as members. The High Powered Committee has submitted its report to the Hon'ble Supreme Court in August 2011 and on 14.9.2011, the Hon'ble Supreme Court passed a detailed order as to the steps to be taken towards computerisation. The Hon'ble Court has nominated the Secretary, Dept. of Food and Public Distribution as the Chief Coordinator of computerisation programme and directed to coordinate with all the Chief Secretaries of the States and UTs. It was directed that the States must complete the process of digitization of data within the prescribed time period and the data must be cleaned with the help of UIDAI or RGI. It is humble submitted that based on the directions, the Government of Puducherry contemplated issue of biometric smart cards to all Ration Card holders in place of the paper based Ration Cards in all the regions of Puducherry.



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9. I humbly submit that the Biometric technology has been considered as a superior tool over the paper based manual identification / authentication mechanisms. Unique Identification Authority of India (UIDAI) formed by an executive order of the Government of India dated 28th January 2009, as an attached office of the Planning Commission offered to provide services of de-duplication and on-line authentication that could form the basis for efficient delivery of various social and welfare services of the Government of UT of Puducherry. Hence, UT Puducherry Government has decided to adopt Unique Identification Number / Aadhaar issued by UIDAI to the residents, integrate the same with various welfare schemes and to have uniform standards and process for verification and identification of beneficiaries.

10. I humbly submit that the State Unique Identification number Implementation Committee was constituted on 12-04-2010 with Planning and Research Department as Nodal Department for the UID Implementation in the UT of Puducherry and nodal department has executed MoU on 28th June 2010 with UIDAI to implement UID project in the UT of Puducherry.

11. I humbly submit that to implement the direction of this Hon'ble Court as detailed in para 8 above Department of CS & CA, Puducherry has engaged a system integrator to issue smart cards for PDS. Biometric enrolments for smart cards aligned with the UID Aadhaar enrolment and generation of Aadhaar number was a pre-requisite to issue smart cards. Aadhaar generation has ensured the standard Bio metric enrolment as well as uniqueness of the PDS beneficiaries. The Aadhaar enrolment launched on 23rd Jan, 2011 to cover all the PDS beneficiaries in a phased manner. Till date 10,99,689 Aadhaar numbers have been generated. Permanent enrolment centres are set up to cater to new enrolment and updation, e-aadhaar, etc.

12. I humbly submit that the enrolments were an inclusive exercise. It was launched with coverage of transgender population and special camps for differently abled, marginalised groups were held in the UT of Puducherry. A Joint Working Group Committee was constituted to identify the problems / issues arising on the implementation of UID project in the UT of Puducherry. The enrolment operations were carried out as per the standards and processes set by UIDAI. Retired Government Servants engaged through open advertisement were trained and appointed as


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verifiers at each enrolment centres to verify the proof of address and proof of identity, proof of date of birth. Enrolments were carried out with the PDS shops as the unit and operations are closely monitored, coordinated and closely supervised by the officials of the CS & CA Department. The Aadhaar data of the residents is kept in secured form at State Data Centre (SDC) and could not be accessed by unauthorised persons. Proper security measures have been incorporated to ensure the safety of the data and prevent from any external attacks like hacking. Periodic review of the enrolment progress was carried out by the State UID Implementation Committee with Chief Secretary as Chairman.

13. I humbly submit that the implementation of Aadhaar project in Mahe region resulted in detection of 389 family ration cards as bogus and in Puducherry nearly 20,000 ration cards has been deleted after the de-duplication efforts.

14. I humbly submit that the impact of the Social Security benefit schemes would be substantially diluted if Aadhaar is not used as the identity proof. Without a fool proof mechanism, the burden of duplicate and fake beneficiaries will be continued and is a loss to the exchequer. It is submitted that there will be no denial of benefits for absence of Aadhaar with a beneficiary.

15. I humbly submit that Unique Identification Number/ Aadhaar generated using the state of Art de-duplication technology and authentication capabilities is expected to bring much needed transparency in implementation of social and welfare schemes by eliminating the pilferages and identity related frauds. It also allows efficient delivery of services/ benefits to the intended beneficiaries. Government of Puducherry intends to re-engineer the process of service delivery by integrating Aadhaar enabling effective and efficient benefit delivery. In view of the above, it is respectfully submitted that deployment of Aadhaar may be allowed as unique identity verifier for grant of Government Benefits consistent with the aim of the Government to reach intended beneficiaries and efficient delivery of various social and welfare services.

16. I submit that this Administration would abide by any direction to be passed by this Hon'ble Court.

Solemnly affirmed at Puducherry
on the 04th day of December 2013
and signed his name in his presence.

DEPONENT

CHETAN B SANGHI I.A.S.,
CHIEF SECRETARY TO GOVERNMENT
PUDUCHERRY.

SIGNED BEFORE ME,

V. GOVINDARAJU, 04/12/2013
ADVOCATE & NOTARY,
Enrolment No.: SSC/85.
353, MAHATMA GANDHI ROAD,
PONDICHERRY.